

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DAVID GIROUX, Derivatively on Behalf
of ACER THERAPEUTICS, INC.,

Plaintiff,

v.

JASON AMELLO, STEVE ASELAGE,
HUBERT BIRNER, JOHN M. DUNN,
MICHELLE GRIFFIN, LUC MARENGERE,
HARRY PALMIN, and CHRIS SCHELLING,

Defendants,

and

ACER THERAPEUTICS, INC.,

Nominal Defendant.

Lead Case No. 1:20-cv-10537

Hon. George A. O'Toole, Jr.

UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT

Now comes the Plaintiff in the above-referenced action and he hereby respectfully moves this Honorable Court to grant preliminary approval of the settlement of this derivative action by entering the Proposed Preliminary Approval and Scheduling Order (“Preliminary Approval Order”) submitted herewith. In support of this Unopposed Motion, the Plaintiff relies upon the Stipulation of Settlement and all exhibits appended thereto, also submitted herewith, together with the accompanying Memorandum of Law in Support of the Unopposed Motion, attached Appendix, and the Declaration of W. Scott Holleman in Support of the Unopposed Motion, together with its exhibits. In addition, the parties respectfully request that the Court calendar a date for the final Fairness Hearing, as discussed in the Preliminary Approval Order, at a date that is convenient for the Court.

Dated: January 21, 2021

Respectfully Submitted,

/s/ Shannon L. Hopkins
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Counsel for Plaintiff David Giroux

CERTIFICATE OF SERVICE

I, Shannon L. Hopkins, certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on January 21, 2021.

Dated: January 21, 2021

/s/Shannon L. Hopkins
Shannon L. Hopkins